IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1575 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI
and
Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UNITED INDIA INSURANCE CO LTD.

Versus

SHAHIDAKHATUN MOHAMMED HASID ANSARI

Appearance:

1. First Appeal No. 1575 of 2002

MR PV NANAVATI for appellant No. 1

MR H.S.MULIA for Respondent No. 1

NOTICE NOT RECD BACK for Respondent No. 2-9

..... for Respondent No. 10-11

CORAM : MR.JUSTICE D.K.TRIVEDI
and
MR.JUSTICE C.K.BUCH

Date of decision: 18/09/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE D.K.TRIVEDI)

1. Admit. Printing dispensed with. Mr. H.S.Mulia, learned advocate, waives service of notice of admission on behalf of respondents claimants. He undertakes to file Vakalatnama on behalf of respondents -original claimants. By consent the Appeal is fixed for final hearing forthwith, without waiting for the service on the remaining respondents, namely, owner and driver of the truck, as the challenge in this Appeal is only in respect of awarding rate of interest while deciding the M.A.C.Petition in favour of the respondents - claimants.

2. Heard Mr. Nanavati, learned advocate for the appellant -Insurance Co. and Mr. Mulia, the learned advocate, who appeared for the respondents -original claimants. During hearing Mr. Nanavati has taken us through the judgment under challenge passed by the M.A.C.T. (Auxi.), Court No.12, City Civil Court, Ahmedabad on 16.1.2002 in M.A.C.P No.1088/98. While considering the claim put forward by the respondents claimants, Tribunal has allowed the Claim Petition partly and awarded a sum of Rs. 5 lacs with 12% interest from 1.7.98 until realisation with proportionate cost towards compensation from the original opponents Nos.1 to 3 and the original opponents were directed to deposit the said amount by granting two months time. Mr. Nanavati has while making challenge in this Appeal only challenged in respect of the rate of interest awarded in favour of the respondents -claimants while awarding compensation. In support of his submission he has placed reliance upon the decision of the Supreme Court in the matter of Kaushnumma Begum v. New Indian Assurance Co.Ltd., reported in JT 2001 (1) SC 375 and the decision of this court dated 20.8.2002 in the matter between Kanchanpuri v. Vittalbhai in First Appeal No.2825/99.

3. Mr.Mulia, the learned advocate appearing on behalf of the respondents -claimants, has fairly conceded that in view of the decision of the Apex court as well as the decision of this court, he has no objection if the award in respect of rate of interest is modified. Accordingly, in view of the stand taken by the learned counsel appearing for the respondents - claimants and the fact that the Tribunal has awarded interest at the rate of 12% while granting compensation in favour of the respondents claimants, the same is required to be modified and accordingly while modifying the award of the Tribunal, this court is inclined to reduce interest from

12% to 9%. Mr. Mulia, learned counsel appearing for the respondents claimants, has also brought to our notice that the appellant Insurance Co. has not deposited the entire amount as awarded by the Tribunal. Mr. Nanavati says that the appellant Insurance Co. will deposit the balance amount, which is outstanding, with the Tribunal within three weeks from today. Accordingly the First appeal is partly allowed to the above extent. However, there will be no order as to costs. The award of the Tribunal is accordingly modified in respect of the rate of interest awarded by the Tribunal.

(D.K.Trivedi,J)

(C.K.Buch,J)

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